

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT COURT OF ILLINOIS, EASTERN DIVISION**

IN RE: Lion Air Flight JT 610 Crash

MERDIAN AGUSTIN, as Personal
Representative of the Estate of **EKA
SUGANDA**, and as next friend of his minor
children **A.M.A.**, and **F.F.F.**,

Plaintiffs,

v.

THE BOEING COMPANY,
Defendant.

Lead Case: 1:18-cv-07686

Original Case No.: 1:19-cv-02074

Hon. Thomas M. Durkin

**JOINT MOTION FOR DISMISSAL OF PLAINTIFF'S CLAIMS WITH PREJUDICE
AND APPROVAL OF MINOR SETTLEMENTS**

Plaintiffs, MERDIAN AGUSTIN, as Personal Representative of the Estate of EKA SUGANDA, individually, and as next friend of his minor children A.M.A., and F.F.F., by and through her undersigned attorneys, move this Court for an Order approving the settlement with defendant of the claim relating to the death of EKA SUGANDA, and in support thereof states as follows:

FACTS

Passenger EKA SUGANDA, was a passenger on board a certain Boeing 737-MAX 8 Aircraft, registration PK-LQP ("the accident aircraft") being operated by PT Lion Air Mentari ("Lion Air") as Flight JT610 from Jakarta to Pangkal Pinang, Indonesia, on October 29th, 2018 (the "accident flight").

This matter is a wrongful death and survival action arising from the death of the decedent following the subject aircraft's crash into the Java Sea on October 29, 2018 during the operation of the subject flight.

The undersigned counsel for Plaintiffs is an independent attorney who represents the interests of Plaintiffs and Decedent's heirs, including the minor heirs, who has investigated, and is familiar with, the facts of this matter, including Plaintiffs' claims, damages, Defendant's defenses and positions, certain legal authorities, and evidence pertaining thereto. Plaintiff's counsel may adequately investigate and evaluate these aspects of the matter on behalf of A.M.A., and F.F.F, because they are members of the same family who have suffered similar damages and whose claims and interest do not conflict with one another.

PLAINTIFF'S ALLEGATIONS

Plaintiff filed a complaint based on products liability and negligence against Defendant, The Boeing Company ("Boeing"). Plaintiff alleges that Boeing designed, manufactured, assembled and sold the accident aircraft and prepared and provided an Aircraft Flight Manual (AFM) for the accident aircraft.

Plaintiff alleges that the accident aircraft was defective, in that among other defects, sensors on the accident aircraft were subject to failure and to providing erroneous information to the accident aircraft's flight control system and that, in the event erroneous information was provided as to angle of attack, a flight control system would cause the accident aircraft to go into an uncommanded nose down position. Plaintiff further alleges defendant's AFM did not warn of this danger or provide proper instruction as to responding to such an event.

Plaintiff alleges that as the direct and proximate result of the defective and unreasonably dangerous condition of defendant Boeing's accident aircraft and AFM and defendant Boeing's negligent acts and omissions, the accident aircraft violently crashed into the Java Sea, causing decedent and all others onboard to expire.

Plaintiff alleges as a direct and proximate result of the defective and unreasonably

dangerous condition of defendant Boeing's accident aircraft and AFM and defendant Boeing's negligent acts or omissions, decedent's heirs and next of kin suffered loss of support, loss of net accumulations, loss of household services, loss of care, comfort, companionship, guidance, and society and mental anguish, sorrow and grief as the result of the death of decedent.

PLAINTIFF'S DAMAGES

The Decedent EKA SUGANDA was 49 years old. Decedent was part of the engineering team at the Cordela Hotel in Jakarta. At the time of his death, he was the Corporate Assistant Chief of Engineering, managing multiple hotel buildings. He was traveling to Pangkal Pinang because Cordela Hotel is constructing a new branch in Bangka. The Decedent is survived by:

- a. Wife; MERDIAN AGUSTIN, age 45 years old.
- b. Son; TANZILAL AZIZI RACHIM, 20-years old.
- c. Minor Son; A.M.A., 9-years old.
- d. Minor Son: F.F.F., 4-years old.
- d. Mother; YETI SUMIJATI, 71-years old.

DEFENDANT'S DEFENSES

Defendant Boeing denies that the accident aircraft was defective and further denies that any act or omission by it proximately caused this crash.

SETTLEMENT AGREEMENT

Counsel for this Plaintiff and counsel for Defendant engaged in a mediation before retired Cook County Circuit Court Chief Judge Donald P. O'Connell and have reached an agreement to settle the claims of this plaintiff against defendant.

As a condition of the settlement, plaintiff has agreed to keep the amount of the settlement confidential.

In negotiating this settlement, plaintiffs' counsel considered the strength of plaintiff's action against this defendant and the defendant's defenses.

Plaintiff's counsel believes the settlement amount is fair and reasonable under all the above-stated considerations.

The mediator Judge O'Connell has a great deal of experience as a judge in aviation matters and this mediator also believes this is a reasonable settlement.

Plaintiff's counsel has fully explained all the above facts to Plaintiff and Plaintiff agrees that the settlement amount is fair and reasonable, and Plaintiff seeks the Court's approval of this settlement.

WHEREFORE, plaintiff prays that this Court enter an Order:

- a. Finding the undersigned Brian S. Kabateck, Esq., is an independent attorney representing the interests of the minor plaintiffs A.M.A. and F.F.F., and who is competent to represent the interest of minor plaintiffs and next of kin that are members of the same family;
- b. Approving on behalf of the minor plaintiffs A.M.A. and F.F.F. the settlement of the claims of plaintiffs against defendant;
- c. Dismissing this action with prejudice and without costs against defendant and retaining jurisdiction to effectuate settlement; and
- d. Providing plaintiffs with other relief as this Court may deem just.

Respectfully submitted,

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Attorney for Plaintiffs

Attorney for Defendant The Boeing Company

CERTIFICATE OF SERVICE

The undersigned, counsel of record, certifies that s/he served the JOINT MOTION FOR DISMISSAL OF PLAINTIFF'S CLAIMS WITH PREJUDICE AND APPROVAL OF MINOR SETTLEMENTS, and related DECLARATION OF PLAINTIFF'S COUNSEL IN SUPPORT OF THE JOINT MOTION FOR DISMISSAL OF PLAINTIFF'S CLAIMS WITH PREJUDICE AND APPROVAL OF MINOR SETTLEMENTS [redacted]; and [PROPOSED] ORDER APPROVING JOINT MOTION FOR DISMISSAL OF PLAINTIFF'S CLAIMS WITH PREJUDICE AND APPROVAL OF MINOR SETTLEMENTS, upon all counsel of record via CM/ECF, on February 26, 2020.

The undersigned, counsel of record, further certifies that s/he served the unredacted and sealed DECLARATION OF PLAINTIFF'S COUNSEL IN SUPPORT OF THE JOINT MOTION FOR DISMISSAL OF PLAINTIFF'S CLAIMS WITH PREJUDICE AND APPROVAL OF MINOR SETTLEMENTS, upon counsel of record for Defendant, on February 26, 2020.

Dated: February 26, 2020

/s/ Brian S. Kabateck
Brian S. Kabateck
Attorney for Plaintiffs